

1 STEPHEN F. HENRY, ESQ.

2 STATE BAR # 142336

3 2625 Alcatraz Avenue, # 615

4 Berkeley, California 94705

5 Telephone: (510) 898-1883

6 Facsimile (510) 295-2516

7 shenry@SHenrylaw.com

8 Attorneys for Plaintiff

9
10 UNITED STATES DISTRICT COURT

11 FOR THE

12 13 NORTHERN DISTRICT OF CALIFORNIA

14 15 DAVID ZWEIG, an individual,

16 Plaintiff,

17 vs.

18 YOSI, INC., a New York corporation,

19 Defendant.

20 Case No. 17-cv-05624-WHA

21 22 23 24 25 26 27 28 **DECLARATION OF STEPHEN HENRY
IN SUPPORT OF OPPOSITION TO
MOTION TO SET ASIDE DEFAULT
AND DEFAULT JUDGMENT**

Hearing Date: September 12, 2019

Time: 8:00 a.m.

Location: Courtroom 4

Hon. William Alsup

19 I, Stephen Henry, declare:

20 21 22 23 24 25 26 27 28 1. I am attorney for the Plaintiff in this action and therefore I personally familiar with and have personal knowledge of the facts and issues set forth herein.

2. On September 19, 2017, I received an email, a true and correct copy of which is attached as Exhibit A, from Hari Prasad acknowledging a letter from me and informing me that he would contact Yosi's attorneys to address it.

3. On September 28, 2017, a complaint was filed in the Northern District of California on behalf of David Zweig against Yosi, Inc.

4. On October 2, 2017, summons was issued by the Court.

1 5. On October 4, 2017, Notice of A Lawsuit and Request To Waive Service Of
2 Summons, a true and correct copy of which is attached as Exhibit B, was mailed to Yosi, Inc. at
3 the address listed by Hari Prasad in his email. The summons and complaint accompanied the
4 Notice.

5 6. On October 4, 2017, in response to an email from Hari Prasad, Plaintiff's counsel
6 informed Prasad that a complaint had just been sent to Yosi, Inc. by email, a true and correct
7 copy of which is attached as Exhibit C.

8 7. In November, 2017, not having received acknowledgment of service from Yosi,
9 Inc., Plaintiff's counsel retained OneLegal to attempt service on Yosi, Inc. That service was
10 unsuccessful.

11 8. On December 7, 2017, service of process was made on Dr. Jonathan Feistmann as
12 a Director of Yosi, Inc. and Proof of Service, a true and correct copy of which is attached as
13 Exhibit D, was filed with the Court.

14 9. On December 21, 2017, Plaintiff's counsel served a Motion for Partial Summary
15 Judgment on Yosi, Inc., a true and correct copy of the Proof of Service of which is attached as
16 Exhibit E.

17 10. On January 5, 2018, in an email acknowledged by Hari Prasad on January 11, a
18 true and correct copy of which is attached as Exhibit F, Plaintiff's counsel alerted Mr. Prasad to
19 take Yosi's default.

20 11. On January 12, 2018, Plaintiff sought a default judgment and, on January 23,
21 2018, the Clerk entered default against Yosi.

22 12. On January 31, 2018, Plaintiff sought a default judgment which was denied
23 without prejudice.

24 13. On March 7, 2018, the Court issued an Order Vacating Hearing; For
25 Supplemental Briefing. Plaintiff submitted the Supplemental Brief on March 21, 2018.

26 14. On March 21, 2018, Plaintiff's counsel served Plaintiff's Motion for Default
27 Judgment, Declaration of Stephen Henry, Declaration of David Zweig, Order Vacating Hearing,

1 and Supplemental Brief on Yosi, Inc., a true and correct copy of the Proof of Service of which is
 2 attached as Exhibit G. On April 2, Hari Prasad acknowledged by email receiving this package.
 3 See Exhibit H, a true and correct copy of the aforementioned email.

4 15. In the Supplemental Brief, Plaintiff agreed with the Court that New York law
 5 applied and the Court allowed leave to amend his complaint to assert a claim under the New
 6 York Labor Code. Plaintiff then re-served Defendant, through Director Jonathan Feistmann on
 7 April 4, 2018, with the Amended Complaint to which Defendant did not respond. Proof of
 8 Service of the Amended Complaint is attached as Exhibit I.

9 16. On May 9, 2018, Plaintiff's counsel served a second Request for Default on the
 10 Amended Complaint and Declaration of Stephen Henry In Support of Request for Default on
 11 Yosi, Inc. Proof of Service of the Amended Complaint is attached as Exhibit J.

12 17. Plaintiff sought and obtained a default with regard to the Amended Complaint
 13 from the clerk on May 11, 2018.

14 18. On June 5, 2018, Plaintiff's counsel served the Court's Order for Reassignment
 15 With Report and Recommendation Re: Motion for Default Judgment. Proof of Service of this
 16 document is attached as Exhibit K.

17 19. On July 5, 2018 this Court adopted the Magistrate Judge's recommendations and
 18 awarded Zweig unpaid wages, severance, liquidated damages, interest, and additional costs.

19 20. On July 31, 2018, Plaintiff's counsel received an email from attorney Seth Wiener
 20 stating in part "I am in the process of begin retained by Yosi to file an appeal in the above case.
 21 The deadline to file the appeal is quickly approaching, and my client would like to engage in
 22 settlement discussions before incurring the costs of an appeal." See Exhibit L, a true and correct
 23 copy of the aforementioned email.

24 I declare under penalty of perjury under the laws of the United States and California that
 25 the foregoing is true and correct. Executed in Berkeley, California on July 17, 2019.

26

27

By /s/ Stephen Henry
 Stephen Henry

28

EXHIBIT A

Stephen Henry

From: Hari Prasad <hari@yosicare.com>
Sent: Tuesday, September 19, 2017 8:23 AM
To: Stephen F. Henry
Subject: Re: David Zweig

Stephen - I received the letter you sent re: Mr. David Zweig's employment with Yosi.
I will consult with our attorneys and get back to you by end of the week with a course of action.

Hari Prasad
CEO, Yosi, Inc

e: hari@yosicare.com
p: (917) 669-9765
f: (866) 328-2726
w: <http://www.yosicare.com>
a: 205 E42nd St Floor 14 New York NY 10017
v: Video Link

EXHIBIT B

AO 398 (Rev. 01/09) Notice of a Lawsuit and Request to Waive Service of a Summons

UNITED STATES DISTRICT COURT
 for the
 Northern District of California

<p>David Zweig <i>Plaintiff</i> v. Yosi, Inc. <i>Defendant</i></p>	<p>)))) Civil Action No. 17-cv-05624-MEJ))</p>
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NOTICE OF A LAWSUIT AND REQUEST TO WAIVE SERVICE OF A SUMMONS

To: Yosi, Inc., 205 E 42nd Street, New York, New York 10017

(Name of the defendant or - if the defendant is a corporation, partnership, or association - an officer or agent authorized to receive service)

Why are you getting this?

A lawsuit has been filed against you, or the entity you represent, in this court under the number shown above. A copy of the complaint is attached.

This is not a summons, or an official notice from the court. It is a request that, to avoid expenses, you waive formal service of a summons by signing and returning the enclosed waiver. To avoid these expenses, you must return the signed waiver within 30 days *(give at least 30 days, or at least 60 days if the defendant is outside any judicial district of the United States)* from the date shown below, which is the date this notice was sent. Two copies of the waiver form are enclosed, along with a stamped, self-addressed envelope or other prepaid means for returning one copy. You may keep the other copy.

What happens next?

If you return the signed waiver, I will file it with the court. The action will then proceed as if you had been served on the date the waiver is filed, but no summons will be served on you and you will have 60 days from the date this notice is sent (see the date below) to answer the complaint (or 90 days if this notice is sent to you outside any judicial district of the United States).

If you do not return the signed waiver within the time indicated, I will arrange to have the summons and complaint served on you. And I will ask the court to require you, or the entity you represent, to pay the expenses of making service.

Please read the enclosed statement about the duty to avoid unnecessary expenses.

I certify that this request is being sent to you on the date below.

Date: 10/04/2017

Signature of the attorney or unrepresented party

Stephen F. Henry

Printed name

2625 Alcatraz Ave., No. 615
Berkeley, CA 94705

Address

shenry@shenrylaw.com

E-mail address

(510) 898-1883

Telephone number

Case 3:17-cv-05624-MEJ Document 5 Filed 10/02/17 Page 1 of 2

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Northern District of California

David Zweig, an individual

Plaintiff(s)
v.
Yosi Inc.

Defendant(s)

Civil Action No. 4:17-cv-05624 MEJ

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Yosi, Inc.
205 E 42nd Street, 14th Floor
New York, New York, 10017

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Stephen F. Henry, Esq.

Stephen P. Henry, Esq.
2625 Alcatraz Avenue, No. 615
Berkeley, CA 94705

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Date: 10/2/2017

CLERK OF COURT

Susan Y. Soong

The seal of the Northern District of California, featuring an eagle with wings spread, perched on a shield with a map of California, surrounded by the text "THE NORTHERN DISTRICT OF CALIFORNIA".

City of San Francisco
Signature of Clerk or Deputy Clerk

Signature of Clerk or Deputy Clerk

EXHIBIT C

Stephen Henry

From: Hari Prasad <hari@yosicare.com>
Sent: Wednesday, October 4, 2017 6:10 PM
To: Stephen F. Henry
Cc: John Gillespie
Subject: Re: David Zweig

I contacted you Sep 19 as soon as I was in receipt to settle this amicably.
I'm disappointed you filed in federal court w/o responding to my email dated Sep 19.

Thanks,
Hari

Hari Prasad
CEO, Yosi, Inc

e: hari@yosicare.com
p: (917) 669-9765
f: (866) 328-2726
w: <http://www.yosicare.com>
a: 205 E42nd St Floor 14 New York NY 10017
v: Video Link

On Wed, Oct 4, 2017 at 6:07 PM, Stephen F. Henry <stephen@shenrylaw.com> wrote:
Absolutely.

But just to let you know, I just put service of a complaint, filed in Federal court, in the mail to Yost's office address.

Stephen

Stephen F. Henry, Esq
2625 Alcatraz Ave., No. 615
Berkeley, CA 94705
(510) 898-1883 (phone)
1-510-295-2516 (fax)

Sent from my iPhone

On Oct 4, 2017, at 5:43 PM, Hari Prasad <hari@yosicare.com> wrote:

Stephen - Can we setup a call early next week to discuss?

Thanks,
Hari

Hari Prasad
CEO, Yosi, Inc

e: hari@yosicare.com
p: (917) 669-9765
f: (866) 328-2726

EXHIBIT D

Case 3:17-cv-05624-MEJ Document 8 Filed 12/13/17 Page 1 of 2

1 **STEPHEN F. HENRY, ESQ.**

2 STATE BAR # 142336

3 2625 Alcatraz Avenue, # 615

4 Berkeley, California 94705

5 Telephone: (510) 898-1883

6 Facsimile (510) 295-2516

7 shenry@SHenrylaw.com

8 Attorneys for Plaintiff

9 **UNITED STATES DISTRICT COURT**

10 **FOR THE**

11 **NORTHERN DISTRICT OF CALIFORNIA**

12 DAVID ZWEIG, an individual,

13 Case No. 17-cv-05624-MEJ

14 Plaintiff,

15 **PROOF OF SERVICE OF SUMMONS
AND COMPLAINT**

16 vs.

17 YOSI, INC., a New York corporation,

18 Defendant.

19

20

21

22 Dated: December 12, 2017

23 STEPHEN F. HENRY, ESQ.

24

25 By:/s/Stephen F. Henry _____

26 STEPHEN F. HENRY

27 Attorney for Plaintiff

Case 3:17-cv-05624-MEJ Document 8 Filed 12/13/17 Page 2 of 2

JACOB SINGER & ASSOCIATES

1357 BROADWAY, PMB 418
NEW YORK, NY 10018
Tel.: (212) 760-2300
Fax: (212) 760-0188

AGENCY AFFIDAVIT

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DAVID ZWEIG

VS INDEX# 4:17-CV-05624

YOSI INC.

State of New York, County of New York, SS:

ELWOOD MORRIS, being duly sworn deposes and says that deponent is over the age of eighteen years, is not a party to this action, and is a resident of New York State .

On DECEMBER 7/2017 AT 11:11 A.M. at: C/O DR. JONATHAN FEISTMANN, M.D.

20 EAST 9TH STREET

NEW YORK, N.Y. 10003

Deponent served the annexed:

**SUMMONS IN A CIVIL ACTION:
PLAINTIFF'S COMPLAINT FOR DAMAGES**

on **YOSI, INC.** by delivering thereat a true copy to **DR. JONATHAN FEISTMANN, M.D.** personally; who at the time of service advised deponent that he/ she was authorized to accept service of process on behalf of **YOSI, INC..**

Deponent describes the individual served as follows:

SEX/RACE (skin color): male / white

HAIR COLOR/ APPROXIMATE AGE: brown / 40's

APPROXIMATE HEIGHT/ APP. WEIGHT: 6'2" / 190 lbs.

1389/PS12.17 -31

SWORN TO BEFORE ME ON December 07, 2017

Julius D. Ringelheim *Elwood Morris*
+.. *ID#12042813*

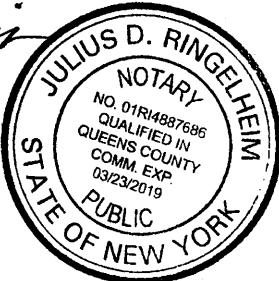


EXHIBIT E

PROOF OF SERVICE

I, Stephen Henry, declare as follows:

I am a citizen of the United States, over the age of eighteen years and not a party to the within entitled action. My business address is 2625 Alcatraz Avenue, No. 615, Berkeley, California, 94705.

On December 21, 2017, I served the attached:

**NOTICE OF MOTION AND MOTION FOR PARTIAL SUMMARY JUDGMENT
DECLARATION OF DAVID ZWEIG IN SUPPORT OF PLAINTIFF'S MOTION**

on the interested parties in said action, by placing a true copy thereof in sealed envelope(s) addressed as follows:

Yosi, Inc.
205 E 42nd Street, 14th Floor
New York, New York, 10017

and served the named document in the manner indicated below:

- BY MAIL:** I caused true and correct copies of the above documents, by following ordinary business practices, to be placed and sealed in envelope(s) addressed to the addressee(s), at Berkeley, California, for collection and mailing with the United States Postal Service, and in the ordinary course of business, correspondence placed for collection on a particular day is deposited with the United States Postal Service that same day.
- BY OVERNIGHT MAIL:** I caused true and correct copies of the above documents, by following ordinary business practices, to be placed and sealed in envelope(s) addressed to the addressee(s), for overnight mailing by Federal Express,
- BY FACSIMILE:** I caused true and correct copies of the above document(s) to be sent via facsimile to the addressee(s) on this date. The facsimile machine used complies with California Rule of Court 2003(3) and no error was reported by the sending facsimile machine. The transmission record for this facsimile complies with California Rule of Court 2003(6).
- BY HAND DELIVERY:** I caused true and correct copies of the above document(s) to be placed within a sealed envelope or other package and then caused the package to be hand-delivered to the addressee(s) on this date.
- BY EMAIL:** I caused true and correct copies of the above document(s) to be sent via email to the addressee(s) on this date.
- BY ELECTRONIC SERVICE:** I caused true and correct copies of the above document(s) to be provided via e-service to the addressee(s) on this date via the same service as was used to e-file the document(s).

I declare under penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct.

Executed December 21, 2017 at Berkeley, California.

/s/Stephen Henry
STEPHEN HENRY

EXHIBIT F

Stephen Henry

From: Hari Prasad <hari@yosicare.com>
Sent: Thursday, January 11, 2018 5:32 PM
To: Stephen F. Henry
Subject: Re: David Zweig

Steve - This new proposal is unreasonable and not acceptable to us.
We are happy to settle for what is rightfully owed to your client through his employment until August 14, 2017, not for anytime beyond his employment with Yosi.

Hari

Hari Prasad
CEO, Yosi, Inc

e: hari@yosicare.com
p: (917) 669-9765
f: (866) 328-2726
w: <http://www.yosicare.com>
a: 205 E42nd St Floor 14 New York NY 10017
v: Video Link

On Fri, Jan 5, 2018 at 7:16 PM, Stephen F. Henry <stephen@shenrylaw.com> wrote:

Dear Mr. Prasad:

You recently contacted Mr. Zweig but he does not wish to communicate with you.

At this point, Yosi has not answered the complaint served upon one of its directors and has not opposed the Motion for Partial Summary Judgment served upon you. Therefore, Mr. Zweig will be taking Yosi's default and/or obtaining judgment through the Motion for Partial Summary Judgment. Once a judgment is in place, Mr. Zweig will be free to collect on the judgment by attaching all of Yosi's assets and income. However, Mr. Zweig is still interested in entering into a settlement agreement that will ameliorate the effect of that collection. Previously, Mr. Zweig had proposed the following resolution:

- (1) In lieu of the severance payment that would be owed if Mr. Zweig terminated his Employment Agreement "with cause," as provided for under the Agreement, Mr. Zweig's last day of employment with Yosi will be October 31, 2017.
- (2) Mr. Zweig will be paid his monthly salary owed of \$6,666.67 for September, 2017 and October, 2017 on the first day of each month and will be issued a pay stub concurrently therewith.
- (3) The parties will negotiate a repayment plan for the remaining money owed to Mr. Zweig, which, as you acknowledge in your August 14, 2017 email, is \$60, 983.11 — with interest for any failure to pay timely pursuant to the Agreement.
- (4) Mr. Zweig will, of course, be looking for employment, and requires a positive letter of recommendation upon request, that accurately reflects his skills.

We have now modified this proposal as follows:

- (1) Mr. Zweig will continue to be employed by Yosi.
- (2) Beginning on January 31, 2018, Mr. Zweig will be paid a monthly salary of \$10,000 on the last day of each month and will be issued a pay stub concurrently therewith.
- (3) At any point thereafter, Mr. Zweig may give notice of his termination of the employment relationship for cause and Yosi will pay the remaining money owed to Mr. Zweig, on a monthly basis without issuance of a paystub, at a rate of \$10,000 per month, until the following amount has been fully paid: \$85,316.45 (which includes \$74,316.45 owed to Mr. Zweig and \$11,000 in accrued and anticipated legal fees).
- (4) Yosi will also provide Mr. Zweig a positive letter of recommendation that accurately reflects his skills, upon request.

You have until January 10, 2018 to respond to this proposal which must be memorialized in writing no later than January 19, 2018

Stephen F. Henry, Attorney at Law

2625 Alcatraz Avenue, No. 615

Berkeley, California 94705

(510) 898-1883 (phone)

1-510-295-2516 (fax)

shenry@shenrylaw.com

Business and Employment Law

Consultation and Litigation

EXHIBIT G

1 **STEPHEN F. HENRY, ESQ.**

2 STATE BAR # 142336
3 2625 Alcatraz Avenue, # 615
4 Berkeley, California 94705
5 Telephone: (510) 898-1883
6 Facsimile (510) 295-2516
7 shenry@SHenrylaw.com

8 Attorneys for Plaintiff

9
10 UNITED STATES DISTRICT COURT

11 FOR THE

12 NORTHERN DISTRICT OF CALIFORNIA

13 DAVID ZWEIG, an individual,

14 Plaintiff,

15 vs.

16 YOSI, INC., a New York corporation,

17 Defendant.

18 Case No. 17-cv-05624-MEJ

19 AMENDED PROOF OF SERVICE

PROOF OF SERVICE

I, Stephen Henry, declare as follows:

I am a citizen of the United States, over the age of eighteen years and not a party to the within entitled action. My business address is 2625 Alcatraz Avenue, No. 615, Berkeley, California, 94705.

On March 21, 2018, I served the attached:

PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT

DECLARATION OF STEPHEN HENRY IN SUPPORT OF MOTION

DECLARATION OF DAVID ZWEIG IN SUPPORT OF MOTION

ORDER VACATING HEARING: FOR SUPPLEMENTAL BRIEFING

SUPPLEMENTAL BRIEF RE MOTION FOR DEFAULT JUDGMENT

on the interested parties in said action, by placing a true copy thereof in sealed envelope(s) addressed as follows:

Yosi, Inc.
205 E 42nd Street, 14th Floor
New York, New York, 10017

and served the named document in the manner indicated below:

- BY MAIL:** I caused true and correct copies of the above documents, by following ordinary business practices, to be placed and sealed in envelope(s) addressed to the addressee(s), at Berkeley, California, for collection and mailing with the United States Postal Service, and in the ordinary course of business, correspondence placed for collection on a particular day is deposited with the United States Postal Service that same day.
- BY OVERNIGHT MAIL:** I caused true and correct copies of the above documents, by following ordinary business practices, to be placed and sealed in envelope(s) addressed to the addressee(s), for overnight mailing by Federal Express,
- BY HAND DELIVERY:** I caused true and correct copies of the above document(s) to be placed within a sealed envelope or other package and then caused the package to be hand-delivered to the addressee(s) on this date.
- BY ELECTRONIC SERVICE:** I caused true and correct copies of the above document(s) to be provided via e-service to the addressee(s) on this date via the same service as was used to e-file the document(s).

I declare under penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct.

Executed March 21, 2018 at Berkeley, California.

/s/Stephen Henry
STEPHEN HENRY

EXHIBIT H

Stephen Henry

From: Hari Prasad <hari@yosicare.com>
Sent: Monday, April 2, 2018 3:35 PM
To: Stephen F. Henry
Subject: Re: David Zweig

Stephen - I received a mail package last week.

I was waiting for a response from you for the below email to handle this situation so we can mutually agree to a payment plan.

What are your thoughts on this?

Hari

Hari Prasad
CEO, Yosi, Inc

e: hari@yosicare.com
p: (917) 669-9765
f: (866) 328-2726
w: <http://www.yosicare.com>
a: 205 E42nd St Floor 14 New York NY 10017
v: Video Link

On Tue, Jan 16, 2018 at 10:47 PM, Hari Prasad <hari@yosicare.com> wrote:

I'm proposing what he would have received after W-2 withholding.
We cant address/discuss how to handle the withholding difference.

Hari Prasad
CEO, Yosi, Inc

e: hari@yosicare.com
p: (917) 669-9765
f: (866) 328-2726
w: <http://www.yosicare.com>
a: 205 E42nd St Floor 14 New York NY 10017
v: Video Link

On Thu, Jan 11, 2018 at 8:53 PM, Stephen F. Henry <stephen@shenrylaw.com> wrote:

Are you proposing to pay him what he would have received after W-2 withholding, even though you never did any W-2 withholding, and you pocket the savings?

Or are you proposing to retroactively do the withholding and provide paystubs and a W-4?

EXHIBIT I

Case 3:17-cv-05624-MEJ Document 25 Filed 05/04/18 Page 1 of 3

1 STEPHEN F. HENRY, ESQ.

2 STATE BAR # 142336

3 2625 Alcatraz Avenue, # 615

4 Berkeley, California 94705

5 Telephone: (510) 898-1883

Facsimile (510) 295-2516

shenry@SHenrylaw.com

6 Attorneys for Plaintiff

7 UNITED STATES DISTRICT COURT

8 FOR THE

9 NORTHERN DISTRICT OF CALIFORNIA

10 DAVID ZWEIG, an individual,

11 Plaintiff,

12 vs.

13 YOSI, INC., a New York corporation,

14 Defendant.

15 Case No. 17-cv-05624-MEJ

16 PROOF OF SERVICE OF SUMMONS
17 AND AMENDED COMPLAINT

18

19

20

21

22 Dated: MAY 4, 2018

23

24

25

26

27

28

STEPHEN F. HENRY, ESQ.

By:/s/Stephen F. Henry _____

STEPHEN F. HENRY
Attorney for Plaintiff

UNITED STATES DISTRICT COURT

for the

Northern District of California

COM

David Zweig, an individual

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Plaintiff(s)

v.

Yosi Inc.

Defendant(s)

Civil Action No. 4:17-cv-05624 MEJ

To: (Defendant's name and address) Yosi, Inc.

205 E 42nd Street, 14th Floor
New York, New York, 10017

SUMMONS IN A CIVIL ACTION

X Jonathan Feinman

4.3.18

BB
8:30 AM

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Stephen F. Henry, Esq.

2625 Alcatraz Avenue, No. 615
Berkeley, CA 94705

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Susan Y. Soong



Signature of Clerk or Deputy Clerk

Date: 10/2/2017

Case 3:17-cv-05624-MEJ Document 25 Filed 05/04/18 Page 3 of 3

JACOB SINGER & ASSOCIATES

1357 BROADWAY, PMB 418
NEW YORK, NY 10018
Tel.: (212) 760-2300
Fax: (212) 760-0188

AGENCY AFFIDAVIT

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DAVID ZWEIG

VS INDEX# 4:17-CV-05624 MEJ

YOSI INC.

State of New York, County of New York, SS:

JACK JOHNSON, being duly sworn deposes and says that deponent is over the age of eighteen years, is not a party to this action, and is a resident of New York State .

On APRIL 3/2018 AT 8:30 A.M. at: C/O DR. JONATHAN FEISTMANN, MD / DBA NYC RETINA
20 EAST 9TH STREET
NEW YORK, N.Y. 10003

Deponent served the annexed:

**SUMMONS IN A CIVIL ACTION:
PLAINTIFF'S AMENDED COMPLAINT FOR DAMAGES**

on YOSI INC. by delivering thereat a true copy to JONATHAN FEISTMANN personally; who at the time of service advised deponent that he/ she was authorized to accept service of process on behalf of YOSI INC..

Deponent describes the individual served as follows:

SEX/RACE (skin color): MALE / WHITE

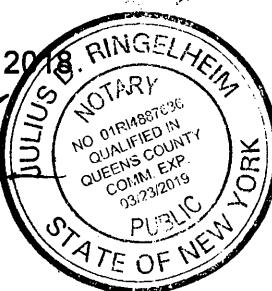
HAIR COLOR/ APPROXIMATE AGE; BROWN/ 30-40 YRS.

APPROXIMATE HEIGHT/ APP. WEIGHT: 6'2"/190 LBS.

1389/PS3.18-110

SWORN TO BEFORE ME ON April 03, 2018

Julius P. Ringelheim



Jack Johnson
#2037237

EXHIBIT J

PROOF OF SERVICE

I, Stephen Henry, declare as follows:

I am a citizen of the United States, over the age of eighteen years and not a party to the within entitled action. My business address is 2625 Alcatraz Avenue, No. 615, Berkeley, California, 94705.

On May 9, 2018, I served the attached:

PLAINTIFF'S REQUEST FOR DEFAULT

on the interested parties in said action, by placing a true copy thereof in sealed envelope(s) addressed as follows:

Yosi, Inc.
205 E 42nd Street, 14th Floor
New York, New York, 10017

and served the named document in the manner indicated below:

BY MAIL: I caused true and correct copies of the above documents, by following ordinary business practices, to be placed and sealed in envelope(s) addressed to the addressee(s), at Berkeley, California, for collection and mailing with the United States Postal Service, and in the ordinary course of business, correspondence placed for collection on a particular day is deposited with the United States Postal Service that same day.

BY OVERNIGHT MAIL: I caused true and correct copies of the above documents, by following ordinary business practices, to be placed and sealed in envelope(s) addressed to the addressee(s), for overnight mailing by Federal Express,

BY HAND DELIVERY: I caused true and correct copies of the above document(s) to be placed within a sealed envelope or other package and then caused the package to be hand-delivered to the addressee(s) on this date.

BY EMAIL: I caused true and correct copies of the above document(s) to be sent via email to the addressee(s) on this date.

BY ELECTRONIC SERVICE: I caused true and correct copies of the above document(s) to be provided via e-service to the addressee(s) on this date via the same service as was used to e-file the document(s).

I declare under penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct.

Executed May 9, 2018 at Berkeley, California.

/s/Stephen Henry
STEPHEN HENRY

PROOF OF SERVICE

I, Stephen Henry, declare as follows:

I am a citizen of the United States, over the age of eighteen years and not a party to the within entitled action. My business address is 2625 Alcatraz Avenue, No. 615, Berkeley, California, 94705.

On May 9, 2018, I served the attached:

DECLARATION OF STEPHEN HENRY IN SUPPORT OF REQUEST FOR DEFAULT

on the interested parties in said action, by placing a true copy thereof in sealed envelope(s) addressed as follows:

Yosi, Inc.
205 E 42nd Street, 14th Floor
New York, New York, 10017

and served the named document in the manner indicated below:

BY MAIL: I caused true and correct copies of the above documents, by following ordinary business practices, to be placed and sealed in envelope(s) addressed to the addressee(s), at Berkeley, California, for collection and mailing with the United States Postal Service, and in the ordinary course of business, correspondence placed for collection on a particular day is deposited with the United States Postal Service that same day.

BY OVERNIGHT MAIL: I caused true and correct copies of the above documents, by following ordinary business practices, to be placed and sealed in envelope(s) addressed to the addressee(s), for overnight mailing by Federal Express,

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I declare under penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct.

Executed May 9, 2018 at Berkeley, California.

/s/Stephen Henry
STEPHEN HENRY

1 **STEPHEN F. HENRY, ESQ.**

2 STATE BAR # 142336
3 2625 Alcatraz Avenue, # 615
4 Berkeley, California 94705
5 Telephone: (510) 898-1883
6 Facsimile (510) 295-2516
7 shenry@SHenrylaw.com

8 Attorneys for Plaintiff

9
10 UNITED STATES DISTRICT COURT

11 FOR THE

12 NORTHERN DISTRICT OF CALIFORNIA

13 DAVID ZWEIG, an individual,

14 Case No. 17-cv-05624-MEJ

15 Plaintiff,

16 **PROOF OF SERVICE**

17 vs.

18 YOSI, INC., a New York corporation,

19 Defendant.

PROOF OF SERVICE

I, Stephen Henry, declare as follows:

I am a citizen of the United States, over the age of eighteen years and not a party to the within entitled action. My business address is 2625 Alcatraz Avenue, No. 615, Berkeley, California, 94705.

On June 5, 2018, I served the attached:

**ORDER FOR REASSIGNMENT WITH REPORT AND RECOMMENDATION RE:
MOTION FOR DEFAULT JUDGMENT**

on the interested parties in said action, by placing a true copy thereof in sealed envelope(s) addressed as follows:

Yosi, Inc.
205 E 42nd Street, 14th Floor
New York, New York, 10017

and served the named document in the manner indicated below:

BY MAIL: I caused true and correct copies of the above documents, by following ordinary business practices, to be placed and sealed in envelope(s) addressed to the addressee(s), at Berkeley, California, for collection and mailing with the United States Postal Service, and in the ordinary course of business, correspondence placed for collection on a particular day is deposited with the United States Postal Service that same day.

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BY HAND DELIVERY: I caused true and correct copies of the above document(s) to be placed within a sealed envelope or other package and then caused the package to be hand-delivered to the addressee(s) on this date.

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BY ELECTRONIC SERVICE: I caused true and correct copies of the above document(s) to be provided via e-service to the addressee(s) on this date via the same service as was used to e-file the document(s).

I declare under penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct.

Executed June 5, 2018 at Berkeley, California.

/s/Stephen Henry
STEPHEN HENRY

EXHIBIT L

Stephen Henry

From: Seth Wiener <sethwiener@yahoo.com>
Sent: Tuesday, July 31, 2018 11:38 AM
To: Stephen F. Henry
Subject: Zweig v. Yosi - Privileged Settlement Communication

Dear Mr. Henry,

I am in the process of begin retained by Yosi to file an appeal in the above case. The deadline to file the appeal is quickly approaching, and my client would like to engage in settlement discussions before incurring the costs of an appeal. Can you let me know your availability to discuss settlement today or tomorrow?

Thanks,
Seth

Law Offices of Seth W. Wiener
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San Ramon, CA 94582
(925) 487-5607
www.sethwienerlaw.com